

AMENDED IN SENATE APRIL 29, 2015

SENATE BILL

No. 477

Introduced by Senator Leyva

February 26, 2015

An act to amend Sections *16181*, 16182, 16184, and 16186 of the Government Code, and to amend ~~Sections 2514 and~~ *Section* 20583 of, and to add Section 20583.1 to, the Revenue and Taxation Code, relating to state government, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 477, as amended, Leyva. Property tax postponement: mobilehomes and floating homes.

Existing law, on and after February 20, 2009, prohibited a person from filing a claim for postponement, and prohibited the Controller from accepting applications for postponement of ad valorem ~~tax~~, *taxes*, under the Senior Citizens and Disabled Citizens Property Tax Postponement Law. Existing law, as of July 1, 2016, makes inoperative the prohibition against a qualifying person, as specified, filing a claim for postponement and the Controller from accepting applications for postponement under the program and repeals this prohibition on January 1, 2017. Existing law does not allow owners of mobilehomes, houseboats, and floating homes to seek postponement of ad valorem taxes when the prohibition is lifted.

This bill would authorize an owner of a mobilehome or floating home, who is a qualified person, to seek postponement of ad valorem taxes under provisions similar to other owners of real property.

Because this bill would provide for additional categories of expenditures from the Senior Citizens and Disabled Citizens Property

Tax Postponement Fund, a continuously appropriated fund, it would make an appropriation.

Because this bill would require local entities to process property liens under the expansion of the property tax postponement program, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 16181 of the Government Code is
2 amended to read:
3 16181. (a) The Controller shall maintain a record of all
4 properties against which a notice of lien for postponed property
5 taxes has been recorded. The record shall include, but not be
6 limited to, the names of each claimant, a description of the real
7 property against which the lien is recorded, the identification
8 number of the notice of lien assigned by the Controller, and the
9 amount of the lien.
10 (b) *The Controller shall maintain a record of all properties*
11 *against which the Department of Housing and Community*
12 *Development has been notified to withhold the transfer of title.*
13 *The record shall include, but not be limited to, the names of each*
14 *claimant, a description of the mobilehome against which a lien is*
15 *charged, and the amount of the lien.*
16 ~~(b)~~
17 (c) Upon written request of any person or entity, or the agent
18 of either, having a legal or equitable interest in real property *or a*
19 *mobilehome* that is subject to a lien for postponed taxes, the
20 Controller shall within 10 working days following receipt of the
21 request issue a written statement showing the amount of the
22 obligation secured by the lien as of the date of the statement and
23 any other information as will reasonably enable the person or

entity, or the agent of either, to determine the amount to be paid the Controller in order to obtain a certificate of release or discharge of the lien for postponed taxes.

(e)

(d) The Controller shall adopt regulations necessary to implement the provisions of this chapter and may establish a reasonable fee, not to exceed thirty dollars (\$30), for the provision of the statement of lien status provided for herein.

SECTION 1.

SEC. 2. Section 16182 of the Government Code is amended to read:

16182. (a) All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California when funds are transferred to the county by the Controller upon the real property or a mobilehome for which property taxes have been postponed. In the case of a residential dwelling which is part of a larger parcel taxed as a unit, such as a duplex, farm, or multipurpose or multidwelling building, the lien shall be against the entire tax parcel.

(b) In the case of real property:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

(2) The notice of lien may bear the facsimile signature of the Controller. Each signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(A) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes.

(B) A description of the real property for which real property taxes have been paid.

1 (C) The identification number of the notice of lien which has
2 been assigned the lien by the Controller.

3 (4) Within 14 business days of the transfer of funds and the
4 notice of lien to the county by the Controller, the notice of lien
5 shall be recorded in the office of the county recorder for the county
6 in which the real property subject to the lien is located.

7 (5) The recorded notice of lien shall be indexed in the Grantor
8 Index to the names of all record owners of the real property and
9 in the Grantee Index to the Controller of the State of California.

10 (6) After the notice of lien has been duly recorded and indexed,
11 it shall be returned by the county recorder to the office of the
12 Controller. The recorder shall provide the county tax collector with
13 a copy of the notice of lien which has been recorded by the
14 Controller.

15 (7) From the time of recordation of a notice of lien for postponed
16 property taxes, a lien shall attach to the real property described
17 therein and shall have the priority of a judgment lien for all
18 amounts secured thereby, except that the lien shall remain in effect
19 until it is released by the Controller in the manner prescribed by
20 Section 16186.

21 (c) In the case of a mobilehome:

22 (1) The lien shall be evidenced by a notice of lien for postponed
23 property taxes executed by the Controller, or the authorized
24 delegate of the Controller, and shall secure all sums paid or owing
25 pursuant to this chapter.

26 (2) The notice of lien may bear the facsimile signature of the
27 Controller. The signature shall be that of the person who is in the
28 office at the time of execution of the notice of lien. However, the
29 notice of lien is valid and binding notwithstanding the person
30 having ceased to hold the office of Controller before the date of
31 filing.

32 (3) The form and contents of the notice of lien for postponed
33 property taxes shall be prescribed by the Controller and shall
34 include, but not be limited to, all of the following:

35 (A) The name or names of the registered owner or owners, legal
36 owner or owners, if different than the registered owner or owners
37 and the names, if any, of all junior lienholders.

38 (B) The identification number of the notice of lien which has
39 been assigned the lien by the Controller.

1 (4) The notice of lien shall be transmitted to the Department of
2 Housing and Community Development at its office in Sacramento,
3 California.

4 (5) Upon receipt of the notice of lien for postponed property
5 taxes from the Controller, the Department of Housing and
6 Community Development shall amend the permanent title record
7 of the mobilehome to reflect that the property taxes on the
8 mobilehome are subject to postponement.

9 (6) The Department of Housing and Community Development
10 shall provide the Controller with an acknowledgment of receipt
11 *of the notice of lien* and amendment of the permanent title record.

12 (7) From the time the Department of Housing and Community
13 Development receives the notice of lien from the Controller, the
14 department shall impose a moratorium on any other amendments
15 to the permanent title record of the mobilehome for purposes of
16 transferring any ownership interest or transferring or creating any
17 security interest in the mobilehome, until released by the Controller
18 in the manner prescribed by Section 16186 or an authorization for
19 the amendments is given by the Controller in writing.

20 (d) From the time of filing a notice of lien, a lien shall attach to
21 the mobilehome for which ~~eligibility for the postponement of~~
22 ~~property taxes has been granted.~~ *property taxes have been*
23 *postponed.*

24 ~~(e) Notwithstanding any other provision in this section, any~~
25 ~~action required of a local agency by this section in order to give~~
26 ~~effect to the Senior Citizens Mobilehome Property Tax~~
27 ~~Postponement Law (Chapter 3.3 (commencing with Section 20639)~~
28 ~~of Part 10.5 of Division 2 of the Revenue and Taxation Code), and~~
29 ~~that has been determined by the Commission on State Mandates~~
30 ~~to be a reimbursable mandate, shall be optional.~~

31 ~~(f)~~

32 (e) In the case of mobilehome loans established prior to February
33 20, 2009, all of the following shall apply:

34 (1) The lien shall be evidenced by a notice of lien for postponed
35 property taxes excused by the Controller, or the authorized delegate
36 of the Controller, and shall secure all sums paid owing pursuant
37 to this chapter.

38 (2) From the time that the Department of Housing and
39 Community Development receives the notice of lien from the
40 Controller, the department shall impose a moratorium on any other

1 amendments to the permanent title record of the mobilehome unit
2 until released by the Controller in the manner prescribed by Section
3 16186, or an authorization for the amendments is given by the
4 Controller in writing.

5 (3) From the time of filing a notice of lien, a lien shall attach to
6 the mobilehome for which eligibility for the postponement of
7 property taxes has been granted.

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 16184 of the Government Code is amended
10 to read:

11 16184. The Controller shall reduce the amount of the obligation
12 secured by the lien against the real property or mobilehome by the
13 amount of any payments received for that purpose and by
14 notification of any amounts paid by the Franchise Tax Board
15 pursuant to Section 20564 or by any amounts authorized pursuant
16 to subdivision (f) of Section 20621 of the Revenue and Taxation
17 Code. The Controller shall also increase the amount of the
18 obligation secured by the lien by the amount of any subsequent
19 payments made pursuant to Section 16180 with respect to the real
20 property and to reflect the accumulation of interest. All such
21 increases and decreases shall be entered in the record described in
22 Section 16181.

23 ~~SEC. 3.~~

24 *SEC. 4.* Section 16186 of the Government Code is amended
25 to read:

26 16186. (a) If at any time the amount of the obligation secured
27 by the lien for postponed property taxes is paid in full or otherwise
28 discharged, the Controller, or the authorized delegate of the
29 Controller, ~~shall~~ *shall*, in the case of real property:

30 (1) Execute and cause to be recorded in the office of the county
31 recorder of the county wherein the real property described in the
32 lien is located, a release of the lien conclusively evidencing the
33 satisfaction of all amounts secured by the lien. The cost of
34 recording the release of the lien shall be added to and become part
35 of the obligation secured by the lien being released.

36 (2) Direct the tax collector to remove from the secured roll, the
37 information required to be entered thereon by paragraph (1) of
38 subdivision (a) of Section 2514 of the Revenue and Taxation Code
39 with respect to the property described in the lien.

1 (3) Direct the assessor to remove from the assessment records
2 applicable to the property described in the lien, the information
3 required to be entered on such records by Section 2515 of the
4 Revenue and Taxation Code.

5 (b) If at any time the amount of the obligation secured by the
6 lien for postponed property taxes is paid in full or otherwise
7 discharged, the Controller, or the authorized delegate of the
8 Controller, shall, in the case of mobilehome loans established prior
9 to February 20, 2009:

10 (1) Direct the tax collector to remove from the secured roll the
11 information required to be entered thereon by paragraph (1) of
12 subdivision (a) of Section 2514 of the Revenue and Taxation Code.

13 (2) Transmit a Release of Lien to the owner of the mobilehome,
14 or the owner's heirs or assigns. The owner, or the owner's heirs
15 or assigns, shall transmit the Release of Lien, and a fee of six
16 dollars (\$6), to the Department of Housing and Community
17 Development. Upon receipt of the Release of Lien and the fee, the
18 department shall terminate the restriction on the permanent title
19 record as provided in Section 16182.

20 (c) If at any time the amount of the obligation secured by the
21 lien for postponed property taxes is paid in full or otherwise
22 discharged, the Controller, or the authorized delegate of the
23 Controller, shall, in the case of a mobilehome:

24 (1) Direct the tax collector to remove from the secured roll the
25 information required to be entered thereon by paragraph (1) of
26 subdivision (a) of Section ~~2514~~ 2515 of the Revenue and Taxation
27 Code.

28 (2) Transmit a Release of Lien to the owner of the mobilehome
29 or the owner's heirs or assigns. The owner, or the owner's heirs
30 or assigns, shall transmit the Release of Lien, and a fee of six
31 dollars (\$6), to the Department of Housing and Community
32 Development. Upon receipt of the Release of Lien and the fee, the
33 department shall terminate the restriction on the permanent title
34 record as provided by Section 16182.

35 ~~SEC. 4. Section 2514 of the Revenue and Taxation Code is~~
36 ~~amended to read:~~

37 ~~2514. (a) With respect to a claimant whose property taxes are~~
38 ~~paid by a lender from an impound, trust, or other type of account~~
39 ~~described in Section 2954 of the Civil Code, the tax collector shall~~
40 ~~notify the auditor of the claimant's name and address, and the~~

1 duplicate amount of money the Controller transferred to the tax
2 collector via an electronic fund transfer.

3 The county auditor, treasurer, or disbursing officer shall send a
4 check in the amount of money based on the electronic transfer by
5 the Controller, to the Controller within 60 days of the replicated
6 payment.

7 (b) The procedures established by this chapter shall not be
8 construed to require a lender to alter the manner in which a lender
9 makes payment of the property taxes of such a claimant.

10 (c) Notwithstanding any other provision in this section, any
11 action required of a local agency by this section in order to give
12 effect to the Senior Citizens Mobilehome Property Tax
13 Postponement Law (Chapter 3.3 (commencing with Section 20639)
14 of Part 10.5 of Division 2), and that has been determined by the
15 Commission on State Mandates to be a reimbursable mandate,
16 shall be optional.

17 SEC. 5. Section 20583 of the Revenue and Taxation Code is
18 amended to read:

19 20583. (a) “Residential dwelling” means a dwelling occupied
20 as the principal place of residence of the claimant, and so much
21 of the land surrounding it as is reasonably necessary for use of the
22 dwelling as a home, owned by the claimant, the claimant and
23 spouse, or by the claimant and either another individual eligible
24 for postponement under this chapter or an individual described in
25 subdivision (a), (b), or (c) of Section 20511 and located in this
26 state. It shall include condominiums and mobilehomes that are
27 assessed as realty for local property tax purposes. It also includes
28 part of a multidwelling or multipurpose building and a part of the
29 land upon which it is built. In the case of a mobilehome not
30 assessed as real property that is located on land owned by the
31 claimant, “residential dwelling” includes the land on which the
32 mobilehome is situated and so much of the land surrounding it as
33 reasonably necessary for use of the mobilehome as a home.

34 (b) As used in this chapter in reference to ownership interests
35 in residential dwellings, “owned” includes (1) the interest of a
36 vendee in possession under a land sale contract provided that the
37 contract or memorandum thereof is recorded and only from the
38 date of recordation of the contract or memorandum thereof in the
39 office of the county recorder where the residential dwelling is
40 located, (2) the interest of the holder of a life estate provided that

the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but “owned” does not include the interest of the holder of any remainder interest or the holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property, and (4) the interest in the residential dwelling in which the title is held in trust, as described in subdivision (d) of Section 62, provided that the Controller determines that the state’s interest is adequately protected.

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) “Residential dwelling” does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 40 percent of the full value of the property as determined for purposes of property taxation or at least 40 percent of the fair market value as determined by the Controller and where the Controller determines that the state’s interest is adequately protected. The 40-percent equity requirement shall be met each time the claimant or authorized agent files a postponement claim.

(2) Any residential dwelling in which the claimant’s interest is held pursuant to a contract of sale or under a life estate, unless the claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate, for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant’s interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

1 (f) Notwithstanding subdivision (c) of Section 20584, houseboats
2 and floating homes, as defined by Section 20583.1, on which
3 property taxes are delinquent at the time the application for
4 postponement under this chapter is made, shall not be eligible for
5 postponement.

6 SEC. 6. Section 20583.1 is added to the Revenue and Taxation
7 Code, to read:

8 20583.1. For purposes of Section 20583, “residential dwelling”
9 includes houseboats and floating homes.

10 SEC. 7. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.